

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

In the Matter of

CERTAIN FOOTWEAR PRODUCTS

Investigation No. 337-TA-936

GENERAL EXCLUSION ORDER

The Commission has determined that there is a violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the unlawful importation, sale for importation, or sale within the United States after importation of certain footwear products covered by one or more of United States Trademark Registration Nos. 1,588,960 and 3,258,103.

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determinations on the issues of remedy, the public interest, and bonding. The Commission has determined that a general exclusion from entry for consumption is necessary to prevent circumvention of an exclusion order limited to products of named persons because there is a pattern of violation of section 337 and it is difficult to identify the source of infringing products. Accordingly, the Commission has determined to issue a general exclusion order prohibiting the unlicensed importation of infringing footwear products.

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(d) do not preclude issuance of the general exclusion order, and that the bond during the Presidential review period shall be in the amount of one hundred (100) percent of entered value (per pair) for all covered products in question.

Accordingly, the Commission hereby **ORDERS** that:

1. Footwear products that infringe United States Trademark Registration Nos. 1,588,960 and 3,258,103 or any marks confusingly similar thereto or that are otherwise misleading as to source, origin, or sponsorship are excluded from entry into the United States for consumption, entry for consumption from a foreign-trade zone, and withdrawal from a warehouse for consumption, except under license from, or with the permission of, the trademark owner or as provided by law until such date as the trademarks have been abandoned, canceled, or rendered invalid or unenforceable.
2. For the purpose of assisting U.S. Customs and Border Protection (“CBP”) in the enforcement of this Order, and without in any way limiting the scope of the Order, the Commission has attached to this Order copies of the relevant trademark registrations as Exhibit 1 and a copy of a photograph of an authentic Converse Inc. footwear product that features the trademarks at issue as Exhibit 2.
3. Notwithstanding paragraph 1 of this Order, the aforesaid footwear products are entitled to entry into the United States for consumption, entry for consumption from a foreign-trade zone, and withdrawal from a warehouse for consumption, under a bond in the amount of one hundred (100) percent of entered value (per pair) of the products pursuant to subsection (j) of Section 337 (19 U.S.C. § 1337(j)), and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (70 *Fed Reg.* 43251), from the day after this Order is received by the United States Trade Representative and until such time as the United States Trade Representative notifies the Commission that this

Order is approved or disapproved but, in any event, not later than sixty (60) days after the date of receipt of this Order.

4. At the discretion of CBP and pursuant to procedures it establishes, persons seeking to import footwear products that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraph 1 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.
5. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to footwear products that are imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.
6. Complainant Converse Inc. shall file a written statement with the Commission, made under oath, each year on the anniversary of the issuance of this Order stating whether Converse Inc. continues to use each of the aforesaid trademarks in commerce in the United States in connection with footwear products, whether any of the aforesaid trademarks has been abandoned, canceled, or rendered invalid or unenforceable, and whether Converse Inc. continues to satisfy the domestic industry requirements of Section 337(a)(2) and (3).

7. The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).
8. The Commission Secretary shall serve copies of this Order upon each party of record in this investigation and U.S. Customs and Border Protection.
9. Notice of this Order shall be published in the *Federal Register*.

By Order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: June 23, 2016

Exhibit 1

7324915

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

November 17, 2011

THE ATTACHED U.S. TRADEMARK REGISTRATION 1,588,960 IS
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND
EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN
THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF 10 YEARS FROM *March 27, 1990*
2nd RENEWAL FOR A TERM OF 10 YEARS FROM *March 27, 2010*
SECTION 8 & 15

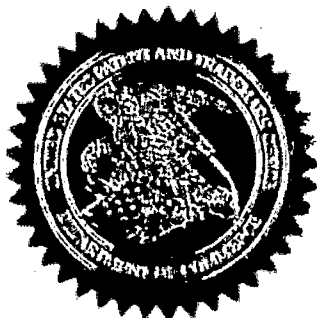
SAID RECORDS SHOW TITLE TO BE IN:

CONVERSE INC.

A DELAWARE CORPORATION

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office

E. Bornett
E. BORNETT
Certifying Officer



EX-003

CONV00476374

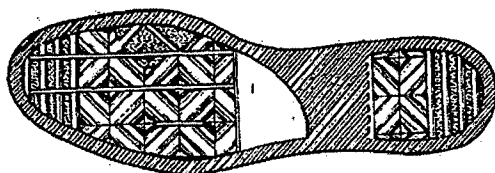
Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

Reg. No. 1,588,960

United States Patent and Trademark Office Registered Mar. 27, 1990

**TRADEMARK
PRINCIPAL REGISTER**



CONVERSE INC. (DELAWARE CORPORATION)
ONE FORDHAM ROAD
NORTH READING, MA 018642680

FOR: ATHLETIC FOOTWEAR, IN CLASS 25
(U.S. CLS. 22 AND 39).

FIRST USE 0-0-1920; IN COMMERCE
0-0-1920.

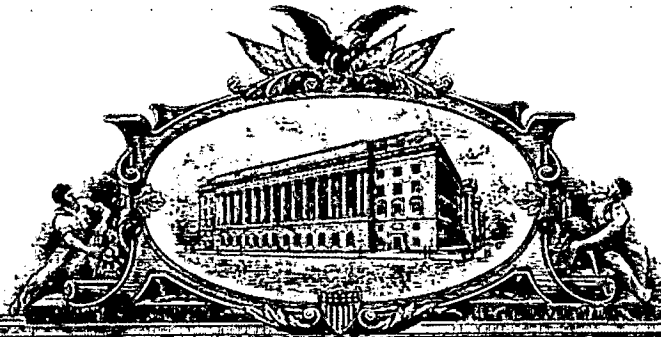
THE LINING AND STIPPLING IN THE
MARK ARE FEATURES OF THE MARK AND
DOES NOT INTENDED TO INDICATE COLOR.
THE MARK CONSISTS OF A THREE DI-
MENSIONAL SOLE OF SHOE DESIGN.
SEC. 2(F).

SER. NO. 73-678,528, FILED 8-14-1987.

JANICE O'LEAR, EXAMINING ATTORNEY

CONV00476375

7324909



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:
UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office


November 17, 2011

THE ATTACHED U.S. TRADEMARK REGISTRATION 3,258,103 IS
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND
EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN
THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF 10 YEARS FROM July 03, 2007

AMENDMENT/CORRECTION/NEW CERT(SECT) ISSUED
SAID RECORDS SHOW TITLE TO BE IN:
REGISTRANT

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office


N. WILLIAMS
Certifying Officer



EX-002

CONV00476371

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Amended

Reg. No. 3,258,103

Registered July 3, 2007

OG Date Jan. 29, 2008

**TRADEMARK
PRINCIPAL REGISTER**



CONVERSE INC. (DELAWARE CORPORATION)
ONE HIGH STREET
NORTH ANDOVER, MA 018452501

OWNER OF U.S. REG. NO. 1,588,960.

THE STIPPLING IS A FEATURE OF THE MARK.

THE MARK CONSISTS OF A THREE DIMENSIONAL TREAD DESIGN LOCATED ON THE OUTSOLE OF A SHOE.

THE BROKEN LINES AND THE SHAPES THEREOF ARE INTENDED TO SHOW THE ENVIRONMENT IN WHICH THE MARK IS USED AND ARE NOT CLAIMED AS A FEATURE OR BOUNDARY OF THE MARK.
SEC. 2(F).

FOR: FOOTWEAR, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 0-0-1920; IN COMMERCE 0-0-1920.

SER. NO. 78-845,880, FILED 3-24-2006.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Jan. 29, 2008.*

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

CONV00476372

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,258,103

Registered July 3, 2007

**TRADEMARK
PRINCIPAL REGISTER**



CONVERSE INC. (ILLINOIS CORPORATION)
ONE HIGH STREET
NORTH ANDOVER, MA 018452501

FOR: FOOTWEAR, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 0-0-1920; IN COMMERCE 0-0-1920.

OWNER OF U.S. REG. NO. 1,588,960.

THE STIPLING IS A FEATURE OF THE MARK.

THE MARK CONSISTS OF A THREE DIMENSIONAL TREAD DESIGN LOCATED ON THE OUTSOLE OF A SHOE. THE BROKEN LINES AND THE SHAPES THEREOF ARE INTENDED TO SHOW THE ENVIRONMENT IN WHICH THE MARK IS USED AND ARE NOT CLAIMED AS A FEATURE OR BOUNDARY OF THE MARK.

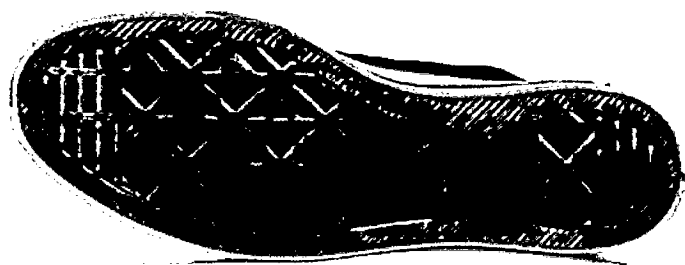
SEC. 2(F).

SER. NO. 78-845,880, FILED 3-24-2006.

PAUL E. FAHRENKOPF, EXAMINING ATTORNEY

CONV00476373

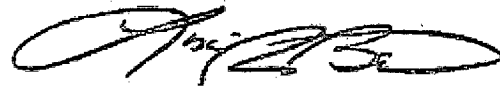
Exhibit 2



CONV00477611

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **COMMISSION ORDER** has been served by hand upon the Commission Investigative Attorney, Sarah J. Sladic, Esq., and the following parties as indicated, on **June 23, 2016**.



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

On Behalf of Complainant Converse Inc.:

V. James Adduci, II, Esq.
ADDUCI, MASTRIANI & SCHAUMBERG, LLP
1133 Connecticut Avenue, N.W., 12th Floor
Washington, DC 20036

- ☐ Via Hand Delivery
☒ Via Express Delivery
☐ Via First Class Mail
☐ Other: _____

On Behalf of Respondent Wal-Mart Stores, Inc.:

Mareesa A. Frederick, Esq.
**FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP**
901 New York Avenue, NW
Washington, DC 20001

- ☐ Via Hand Delivery
☒ Via Express Delivery
☐ Via First Class Mail
☐ Other: _____

On Behalf of Respondent Skechers U.S.A., Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1899 L Street, NW, Suite 1150
Washington, DC 20036

- ☐ Via Hand Delivery
☒ Via Express Delivery
☐ Via First Class Mail
☐ Other: _____

Certificate of Service – Page 2

**On Behalf of Respondent Highline United LLC d/b/a Ash
Footwear USA:**

Gerard P. Norton, Esq.
FOX ROTHSCHILD LLP
Princeton Pike Corporate Center
997 Lennox Drive, Building 3
Lawrenceville, NJ 08648-2311

- ☐ Via Hand Delivery
- ☒ Via Express Delivery
- ☐ Via First Class Mail
- ☐ Other: _____

On Behalf of Respondent New Balance

Thomas S. Fusco, Esq.
FISH & RICHARDSON P.C.
1425 K Street, NW, 11th Floor
Washington, D.C. 20005

- ☐ Via Hand Delivery
- ☒ Via Express Delivery
- ☐ Via First Class Mail
- ☐ Other: _____